

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
	)	Case No. 01-01139 (JKF)
W.R. GRACE & CO., <u>et al.</u> ,	)	Jointly Administered
	)	
Debtors.	)	Hearing Date: September 29, 2008 at 10:00 a.m. ET
	)	Re: Docket No. 19588

**CERTIFICATION OF COUNSEL FOR CLAIMANT STATE OF CALIFORNIA,  
DEPARTMENT OF GENERAL SERVICES REGARDING THE STATUS  
CONFERENCE ON PROPERTY DAMAGE CLAIMS (ITEM 9 ON NOTICE  
OF AGENDA FOR THE SEPTEMBER 29, 2008 HEARING)**

1. We represent the State of California, Department of General Services (the "State"), in its prosecution of sixteen property damage claims, seeking over \$130 million in damages, against the above-referenced Debtors.

2. This certification is made in advance of the status conference scheduled for the September 29, 2008 Omnibus Hearing so that the Court will have the benefit of reviewing this certification before such conference, for two purposes: to inquire about (1) the timeframe within which the Court expects to issue a decision on Debtors' motion for summary judgment based upon the statute of limitations (still undecided as of September 25, 2008) and (2) whether the Court will promptly issue a new case management order directing the parties to, among other things, conduct remaining discovery on Debtors' unresolved "lack of hazard" objection to the State's claims.

3. On February 16, 2007, Debtors filed the pending summary judgment motions as to the State's claims and those of other parties, most of which have since settled with the Debtors. On March 20, 2007, the State filed its detailed memorandum and declaration with exhibits in opposition to the Debtors' motion. On April 9, 2007, after hearing extensive oral

argument on the Debtors' motions, the Court reserved decision. On April 12, 2007, the Court entered a modified Case Management Order, in which all deadlines relating to the statute of limitations-based objections were stayed (Docket No. 15156). At an April 19, 2007 hearing, the Court further vacated all deadlines relating to the "lack of hazard" objection (Docket No. 15272).

4. In the seventeen months since, the only progress made to resolve the State's claims has consisted of the Court's overruling Debtors' product identification-based objections after a "product ID" evidentiary hearing (Docket No. 16039), and a court-directed mediation held before former United States Magistrate Judge Diane W. Welsh on July 2, 2008 (Docket No. 19036). While that mediation was unfruitful, Judge Welsh's July 2nd e-mail report to the Court advised of her availability to resume the mediation once the Court determines Debtors' summary judgment motion.

5. From April 2007, therefore, the parties have essentially been in a holding pattern, without any further meaningful progress made toward resolution of the State's claims. Since the most immediate issue ripe for resolution is Debtors' "lack of hazard" objection, the State believes that the Court should favorably consider issuing a new case management order that vacates the stay and schedules various deadlines such as those for the completion of expert witness depositions and filing of dispositive motions. In this fashion, the parties can make productive use of the time they now have toward a resolution of the State's claims.

Dated: September 25, 2008  
Wilmington, Delaware

Respectfully submitted,

/s/ Leslie C. Heilman

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